

COMMENT SET 4



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802- 4213

In Reply, Refer to: 150316SWR02HC6416:MLD

California State Lands Commission
Attn: Eric Gillies
100 Howe Avenue, Suite 100-S
Sacramento, California 95825

MAR 11 2004

Dear Mr. Gillies:

The National Marine Fisheries Service (NOAA Fisheries), Southwest Region, has reviewed the Draft Environmental Impact Report (EIR) for the Revised PRC-421 Pier Removal Project. PRC-421 is located about two miles west of Coal Oil Point and 850 feet offshore in Santa Barbara County, California. Atlantic Richfield Company (ARCO) proposes to remove derelict components of the facility, install roosting/nesting platforms, and augment the toppled pier caissons with quarry rock to provide additional hard bottom habitat of up to 0.7 acres. NOAA Fisheries provides its comments on the project under purview of the Essential Fish Habitat (EFH) provisions in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855, *et. seq.*), and protected resource provisions under the Marine Mammal Protection Act (16 U.S.C. 1361 *et. seq.*), and the Endangered Species Act (16 U.S.C. 1531 *et. seq.*).

Endangered Species Act (ESA)

White Abalone, *Haliotis sorenseni*

NOAA Fisheries agrees that the project is unlikely to have significant effects on the endangered white abalone. Proposed mitigation actions will minimize the amount of sediment resuspension during project operations and will reduce potential damage to white abalone and their habitat during anchoring. However, given that a white abalone was identified in 24 feet of water off the Santa Barbara coast in April 2002, NOAA Fisheries suggests the following additional measures to ensure that white abalone will not be affected by the proposed activity:

1. An underwater survey, aimed at identifying white abalone within the project area, should be conducted no more than 30 days prior to the start of the project. Searches should focus on areas within a 40 foot radius of anchoring and pile driving locations and should pay special attention to those sites that contain low and high relief rocky outcroppings.
2. ARCO should contact NOAA Fisheries immediately if white abalone are identified during the underwater dive survey. If white abalone are detected within a 40 foot radius of anchor or pile driving locations, project activities should halt until the animals have been relocated or another appropriate alternative has been identified.



3. ARCO should submit copies of its underwater survey results to NOAA Fisheries in as timely a manner as possible.

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Species of Concern

Pink and green abalone (*Haliotis corrugata* and *H. fulgens*, respectively) will be added to the Species of Concern List in 2004. "Species of Concern" are those species for which there is concern or great uncertainty about biological status and threats, but are not species being formally considered for listing or subject to a regulation. There are no mandatory federal protections required under the ESA for "Species of Concern"; however, NOAA Fisheries urges ARCO to voluntarily avoid activities that may negatively impact pink and green abalone. NOAA Fisheries recommends the following:

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1. ARCO should identify pink and green abalone during the underwater surveys aimed at identifying white abalone within the project area.
2. ARCO should notify NOAA Fisheries if pink or green abalone are detected within 40 feet of anchor or pile driving locations so that the animals can be relocated or another appropriate alternative can be identified.

Marine Mammal Protection Act (MMPA)

Whales, dolphins, and seals are protected under the MMPA. According to the MMPA, it is illegal to "take" a marine mammal without prior authorization from NOAA Fisheries. "Take" is defined as harassing, hunting, capturing, or killing, or attempting to harass, hunt, capture, or kill any marine mammal. "Harassment" is defined as any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal in the wild, or has the potential to disturb a marine mammal in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

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Concern has arisen that sounds introduced into the sea by man-made devices could have a deleterious effect on marine mammals by causing stress, interfering with communication and predator/prey detection, and changing behavior. More significantly, acoustic overexposure to loud sounds can lead to a temporary or permanent loss of hearing (termed a temporary (TTS) or permanent (PTS) threshold shift). NOAA Fisheries is in the process of determining safety criteria for marine species exposed to underwater sound. Based on past projects involving pile driving and explosives, consultations with experts, and on published studies, we have preliminarily determined that pinnipeds can be safely exposed to impulse sound pressure levels not greater than 190 dB re 1 $\mu\text{Pa}_{\text{RMS}}$. However, marine mammals have also shown behavioral changes when exposed to impulse sound pressure levels of 160 dB re 1 $\mu\text{Pa}_{\text{RMS}}$. Based on the information provided in the Draft EIR, it may be necessary to receive authorization from NOAA Fisheries under the MMPA for this proposed project.

NOAA Fisheries concurs with the mitigation measure to avoid the gray whale migration and the

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harbor seal pupping season. The harbor seal pupping period was listed as January 1 to April 30, however, pups may be born as early as mid- to late January and some are born well into May. Thus, the pupping season is more likely from February 1 to May 31. Also, please note that more animals are likely to haul out at the Ellwood rookery during the molting season which immediately follows the pupping season, and may flush into the water if startled and possibly enter the hazard zone.

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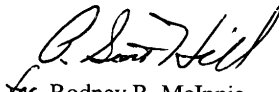
Essential Fish Habitat

NOAA Fisheries concurs with the EFH Assessment (Appendix G) that the project will not adversely affect EFH and agrees that the project will provide additional complex substrate in the project area. NOAA Fisheries appreciates the efforts by ARCO, the California State Lands Commission, and the California Department of Fish and Game for improving habitat quality for fish species in the local area.

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Thank you for consulting with NOAA Fisheries and considering our recommendations. Please contact Monica DeAngelis at 562-980-3232 or Monica.DeAngelis@noaa.gov if you have any questions concerning this letter or if you require additional information.

Sincerely,


for Rodney R. McInnis
Acting Regional Administrator

cc: Melissa Neuman, NOAA Fisheries Southwest Regional Office
Mark Helvey, NOAA Fisheries Southwest Regional Office

Commenting Party: United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Rodney McInnis, Acting Regional Director

Date of Comment(s): March 11, 2004

Responses to Comment(s):

- 4-1. The additional measures suggested by NOAA Fisheries have been added to the Biology Section of the EIR and Mitigation Monitoring Program (please see errata pages).
- 4-2. Please refer to Response to Comment 4-1 above.
- 4-3. Please refer to Section 2.6.1, Project Approvals and Permits of the DEIR in which this potential requirement is identified.
- 4-4. Table 4.4-6 of the DEIR identifies that harbor seal pupping and breeding is a concern from January through June in the Naples area. The marine mammal monitoring provisions incorporated into the Proposed Project are based on the inclusive period. We believe that the application of such provisions will ensure that harbor seals that may possibly enter the project area due to startling while hauled out at the Ellwood rockery would be protected.
- 4-5. Comment noted.